

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

Carrum Technologies, LLC,

Plaintiff,

v.

FCA US LLC,

Defendant.

C.A. No. 18-cv-1646-RGA

United States District Court  
for the District of Delaware

Misc. Case No.

**PLAINTIFF'S MOTION FOR LEAVE TO FILE MOTION TO  
COMPEL COMPLIANCE WITH RULE 45 SUBPOENA ISSUED  
FROM THE DISTRICT OF DELAWARE TO NON-PARTY BOSCH,  
ACCOMPANYING BRIEF IN SUPPORT OF THE MOTION TO  
COMPEL, AND RELATED EXHIBITS UNDER SEAL**

Plaintiff Carrum Technologies, LLC ("Carrum"), by and through its undersigned attorneys, and pursuant to Local Rule 5.3, hereby moves this Court for entry of an order permitting Carrum to file the enclosed, unredacted Motion to Compel Compliance with Rule 45 Subpoena Issued from the District of Delaware to Non-Party Bosch ("Motion to Compel"), accompanying Brief in Support of Motion to Compel, and related exhibits under seal to avoid the public disclosure of documents and information that have been designated CONFIDENTIAL pursuant to the operative protective order in *Carrum*

*Technologies, LLC v. FCA*, C.A. No. 18-1646-RGA (D. Del.) (“*Carrum v. FCA*”). *See Carrum v. FCA*, D.I. 36 at 32 (protective order).

This Motion is supported by an accompanying Brief. Carrum’s unredacted Motion to Compel, Brief in Support of Motion to Compel, and related exhibits are attached to the Brief in support of the instant Motion as Exhibit A, with proposed redactions to protect Bosch’s and FCA’s confidential documents and information indicated by highlighting. Carrum’s redacted Motion to Compel, Brief in Support of Motion to Compel, and related exhibits are attached to the Brief in support of the instant Motion as Exhibit B.

Pursuant to Local Rule 7.1, Carrum sought concurrence in this Motion on December 21, 2021. Bosch’s counsel does not object to the relief requested in this motion.

December 22, 2021

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that on December 22, 2021, a copy of the document above was served on the following counsel by electronic mail:

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**IN THE UNITED STATES DISTRICT COURT  
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Carrum Technologies, LLC,

Plaintiff,

v.

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C.A. No. 18-cv-1646-RGA

United States District Court  
for the District of Delaware

Misc. Case No.

**PLAINTIFF'S BRIEF IN SUPPORT OF PLAINTIFF'S MOTION FOR  
LEAVE TO FILE MOTION TO COMPEL COMPLIANCE WITH RULE 45  
SUBPOENA ISSUED FROM THE DISTRICT OF DELAWARE TO NON-  
PARTY BOSCH, ACCOMPANYING BRIEF IN SUPPORT OF THE  
MOTION TO COMPEL, AND RELATED EXHIBITS UNDER SEAL**

## **STATEMENT OF THE ISSUES PRESENTED**

Pursuant to Local Rule 5.3, whether Carrum should be permitted to file under seal its Motion to Compel Compliance with Rule 45 Subpoena Issued from the District of Delaware to Non-Party Bosch (“Motion to Compel”), accompanying Brief in Support of the Motion to Compel, and related exhibits, in order to protect from public disclosure documents and information of Robert Bosch LLC (“Bosch”) and FCA US LLC (“FCA”), which documents and information have been produced by Bosch (in response to third-party subpoenas) in the course of patent litigation pending in the District of Delaware, and designated CONFIDENTIAL pursuant to the governing protective order in that litigation.

**CONTROLLING OR MOST APPROPRIATE AUTHORITY**

Local Rule 5.3

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**INDEX OF EXHIBITS**

| <b>Exhibit No.</b> | <b>Description</b>  |
|--------------------|---|
| A.                 | Unredacted (proposed redactions indicated by highlighting) Motion to Compel Compliance with Rule 45 Subpoena Issued from the District of Delaware to Non-Party Bosch (“Motion to Compel”), accompanying Brief in Support of Motion to Compel, and related exhibits 1–16 |
| B.                 | Redacted Motion to Compel, accompanying Brief in Support of Motion to Compel, and related exhibits 1–16   |

Pursuant to Local Rule 5.3(b), Plaintiff Carrum Technologies LLC requests an order permitting it to file the enclosed, unredacted Motion to Compel Compliance with Rule 45 Subpoena Issued from the District of Delaware to Non-Party Bosch (“Motion to Compel”), accompanying Brief in Support of Motion to Compel, and related exhibits, under seal. Carrum’s subpoenas to Bosch, which are the subject of Carrum’s Motion to Compel, relate to Carrum’s claims for patent infringement against FCA US LLC (“FCA”) currently pending in the U.S. District Court for the District of Delaware. It is necessary to file under seal Carrum’s Motion to Compel, Brief in Support of the Motion to Compel, and related exhibits, in the Eastern District of Michigan in order to comply with the governing protective order in the District of Delaware, which requires Carrum to avoid the public disclosure of documents and information that have been designated CONFIDENTIAL by Bosch pursuant to that protective order.

### **Background**

Carrum has sued FCA in the District of Delaware for patent infringement. *Carrum Technologies, LLC v. FCA*, C.A. No. 18-1646-RGA (D. Del.) (“*Carrum v. FCA*”). This case is pending before the Honorable Judge Richard G. Andrews and is currently in the process of fact discovery. In *Carrum v. FCA*, Carrum accuses FCA of infringing Carrum’s United States Patent Nos. 7,512,475 (“the ’475 patent”) and 7,925,416 (“the ’416 patent”) (collectively, the “Asserted Patents”). The Asserted Patents generally relate to adaptive cruise control (“ACC”) systems in vehicles. Judge Andrews has issued

a protective order in this case. *Carrum v. FCA*, D.I. 36 at 32 (protective order) (“Delaware Protective Order”).

Robert Bosch LLC (“Bosch”) supplies components to FCA, the functionality of which are relevant to Carrum’s claims that FCA infringes the Asserted Patents. As a result, Carrum served Subpoenas to Produce Documents on Bosch on June 30, 2021, and October 4, 2021, relating to *Carrum v. FCA*. Carrum contends that Bosch has not sufficiently complied with these subpoenas, though Bosch has produced some documents responsive to these subpoenas. Carrum’s enclosed Motion to Compel Compliance with Rule 45 Subpoena Issued from the District of Delaware to Non-Party Bosch (“Motion to Compel”) seeks to enforce compliance with the subpoenas served on Bosch.

Carrum’s Motion to Compel is supported by an accompanying brief (“Brief in Support of Motion to Compel”) and related exhibits. The Brief in Support of Motion to Compel cites, and attaches as exhibits, various documents and information that have been produced by Bosch in response to the subpoenas served by Carrum. Portions of these documents contain confidential information of both Bosch and FCA. These documents and information have been designated by Bosch as “CONFIDENTIAL” in accordance with the Delaware Protective Order. Therefore, in order to comply with the Delaware Protective Order and protect Bosch’s and FCA’s confidential information from public disclosure, Carrum respectfully moves for leave from this Court to file

under seal its enclosed Motion to Compel, Brief in Support of Motion to Compel, and related exhibits.

### **Documents Proposed for Sealing**

Pursuant to Local Rule 5.3(b)(3)(A)(i), Carrum provides the following list of documents proposed for sealing:

| <b>Index of Documents Proposed for Sealing</b> |  |                         |
|--|--|-------------------------|
| <b>Exhibit</b>                                 | <b>Document</b>  | <b>Bosch's Position</b> |
|  | Motion to Compel   | Does not oppose         |
|  | Brief in Support of Motion to Compel   | Does not oppose         |
| 3.   | Subpoena to Robert Bosch LLC (served June 30, 2021)  | Does not oppose         |
| 4.   | Subpoena to Robert Bosch LLC (served October 4, 2021)  | Does not oppose         |
| 5.   | Bosch's objections and responses to June 30 subpoena (July 30, 2021)                             | Does not oppose         |
| 6.   | Bosch's objections and responses to October 4 subpoena (October 20, 2021)                        | Does not oppose         |
| 7.   | Email correspondence between counsel for Bosch and counsel for Carrum (Aug. 30 – Sept. 15, 2021) | Does not oppose         |
| 8.   | Email correspondence between counsel for Bosch and counsel for Carrum (Sept 3. – Nov. 5, 2021)   | Does not oppose         |
| 9.   | Email correspondence between counsel for Bosch and counsel for Carrum (Nov. 3 – Dec. 17, 2021)   | Does not oppose         |
| 10.  | Email from counsel for FCA to counsel for Carrum (Nov. 16, 2021)                                 | Does not oppose         |
| 11.  | BOSCH099448  | Does not oppose         |
| 12.  | BOSCH006330 (cited pages)  | Does not oppose         |
| 13.  | BOSCH112936  | Does not oppose         |
| 15.  | Declaration of Jason Murray  | Does not oppose         |
| 16.  | Declaration of Prof. Gregory Shaver, Ph.D.   | Does not oppose         |

Pursuant to Local Rule 5.3(b)(3)(A)(v) and (vi), unredacted (with proposed redactions indicated by highlighting) and redacted versions of the Motion to Compel, Brief in Support of Motion to Compel, and related exhibits, are attached to the instant Motion as Exhibits A and B respectively.

Pursuant to Local Rule 5.3(b)(3)(A)(ii), as indicated above, Bosch has designated the documents and information cited or referenced in the redacted portions of the Motion to Compel, Brief in Support of Motion to Compel, and related exhibits, as CONFIDENTIAL in accordance with the Delaware Protective Order. FCA has also designated as CONFIDENTIAL information about the specific components it purchases from Bosch and the vehicles in which those components are used. Bosch and/or FCA accordingly have privacy interests and/or other legitimate interests in maintaining the redacted information as confidential.

### **Argument**

Courts have consistently held that “the decision as to when judicial records should be sealed is left to the sound discretion of the district court...” *In re Knoxville News-Sentinel Co., Inc.*, 723 F.2d 470, 474 (6th Cir. 1983). The determination of whether a party can file documents under seal is made on a case-by-case basis. *Zellerino v. Roosen*, No. 14-12715, 2015 WL 13036940, at \*1 (E.D. Mich. July 1, 2015) (citing *Nixon v. Warner Communications Inc.*, 435 U.S. 589, 599 (1978)). In determining whether documents should be sealed, the moving party must show “(1) a compelling interest in sealing the records; (2) that the interest in sealing outweighs the public’s interest in

accessing the records; and (3) that the request is narrowly tailored.” *Kondash v. Kia Motors Am., Inc.*, 767 F. App’x 635, 637 (6th Cir. 2019) (citing *Shane Grp., Inc. v. Blue Cross Blue Shield of Michigan*, 825 F.3d 299, 305 (6th Cir. 2016)).

Here, Carrum’s compelling interest for sealing the proposed documents is to comply with the Delaware Protective Order and to protect the confidential and sensitive business and technical information of Bosch and FCA. The Delaware Protective Order obligates Carrum to prevent the public disclosure of Bosch’s and FCA’s confidential information. The subject documents and information designated “CONFIDENTIAL” by Bosch include proprietary business information about Bosch’s and FCA’s internal identifiers and descriptors for components sourced from Bosch by FCA. The document bearing Bates No. BOSCH112936 is a confidential communication between Bosch and FCA. Bosch and FCA, and by extension Carrum, have a compelling interest in protecting this confidential business information from public disclosure.

Further, certain Bosch documents (bearing Bates Nos. BOSCH0099448 and BOSCH006330 in the Delaware Litigation) are confidential documents describing and depicting the function of the components that Bosch supplies to FCA. Bosch and FCA, and by extension Carrum, have a compelling interest in protecting this confidential technical information about the configuration and functionality of FCA vehicle systems (and the Bosch components therein) from public disclosure.

Carrum's interest, and by extension Bosch's and FCA's interest, in protecting their confidential and sensitive business and technical information outweighs the public interest in discovering same. Finally, Carrum's request is narrowly tailored to encompass only documents and information that were designated "CONFIDENTIAL" under the Delaware Protective Orders.

Carrum does not object to providing a copy of its unredacted Motion to Compel, Brief in Support of Motion to Compel, and related exhibits to all counsel of record in this matter, to be handled in a manner appropriate to maintain confidentiality of the redacted information. All confidential FCA information cited or referenced in the Motion to Compel, Brief in Support of Motion to Compel, and related exhibits was already in the possession of Bosch prior to the filing of the instant Motion. Accordingly, no party will be prejudiced if the instant Motion is granted.

Pursuant to Local Rule 7.1, concurrence was sought from Bosch's counsel in the relief requested on December 21, 2021. Bosch's counsel does not object to the relief requested in this motion.

### **Conclusion**

Carrum respectfully requests that this Honorable Court GRANT the instant Motion and thereby permit the subject documents to be filed in unredacted format under seal, with all due protections that such a filing affords.



December 22, 2021

Respectfully submitted,

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